

Appellant filed an occupational claim on May 7, 2004 alleging emotional and physical injuries as result of her federal employment as an audiology health technician. By decision dated December 8, 2004, the Office denied the claim for compensation. The Office acknowledged that there were personality conflicts and changes in appellant's schedule and duties, but found these

were not compensable work factors. Appellant requested reconsideration of her claim on April 27, 2005. In a decision dated July 27, 2005, the Office reviewed the case on its merits and denied modification. The Office found that appellant had not established harassment, administrative error, or any compensable work factor.

On March 21, 2006 the Office received by facsimile transmission a request for reconsideration dated January 20, 2006. Appellant's representative stated that appellant and her physicians disagreed with the July 27, 2005 decision and "offer the attached documentation for consideration." The record does not contain any additional evidence submitted with the reconsideration request.

By decision dated June 21, 2005, the Office found that the application for reconsideration was insufficient to warrant merit review of the claim.

### **LEGAL PRECEDENT**

To require the Office to reopen a case for merit review under section 8128(a) of the Federal Employees' Compensation Act,<sup>1</sup> the Office's regulations provides that a claimant may obtain review of the merits of the claim by submitting a written application for reconsideration that sets forth arguments and contains evidence that either "(i) shows that [the Office] erroneously applied or interpreted a specific point of law; (ii) advances a relevant legal argument not previously considered by [the Office]; or (iii) constitutes relevant and pertinent evidence not previously considered by [the Office]."<sup>2</sup> Section 10.608(b) states that any application for reconsideration that does not meet at least one of the requirements listed in section 10.606(b)(2) will be denied by the Office without review of the merits of the claim.<sup>3</sup>

### **ANALYSIS**

The Office did not accept that appellant alleged and established compensable work factors with respect to her claim for compensation. On reconsideration, appellant appeared to indicate that she was submitting additional medical evidence for her claim. The Board notes that she must first establish a compensable work factor, and then the medical evidence is reviewed to determine if an injury causally related to the work factor has been established.<sup>4</sup> In this case the record transmitted to the Board did not contain any new medical evidence or other evidence with the application for reconsideration. Appellant did not submit relevant and pertinent evidence not previously considered by the Office.

In addition, appellant did not show that the Office erroneously applied or interpreted a point of law, or advance a new and relevant legal argument. She did not raise any legal

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<sup>1</sup> 5 U.S.C. § 8128(a) (providing that "[t]he Secretary of Labor may review an award for or against payment of compensation at any time on his own motion or on application").

<sup>2</sup> 20 C.F.R. § 10.606(b)(2).

<sup>3</sup> 20 C.F.R. § 10.608(b); *see also* Norman W. Hanson, 45 ECAB 430 (1994).

<sup>4</sup> *See* Margaret S. Krzycki, 43 ECAB 496 (1992).

arguments on reconsideration. Appellant did not meet any of the requirements of section 10.606(b)(2), and therefore the Office properly denied the application for reconsideration without merit review.

**CONCLUSION**

Appellant did not meet the requirements of 20 C.F.R. § 10.606(b)(2) and therefore the Office properly denied her application for reconsideration without merit review of the claim.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated June 21, 2006 is affirmed.

Issued: January 24, 2007  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board